REMARKS

Upon entry of the foregoing amendment, claims 31-59 are pending. Claims 31, 39, 46 and 53 have been amended. New claim 59 has been added. No claims have been cancelled. Unless otherwise indicated, the amendments have been made for consistency only. The foregoing amendments are supported by the specification as filed. Thus no new matter is added.

In view of the foregoing amendments and the following remarks, allowance of the pending claims is requested.

Examiner Interview

Applicant would like to thank Examiner William Vaughn and Examiner David England for the courtesies extended to Applicant's representative Timothy Rooney during the Examiner Interview of June 20, 2006 (the "Examiner Interview").

Claim Objections

The Examiner has objected to claims 31-58 because of alleged informalities. On page 2 of the Office Action mailed January 12, 2006 (the "Jan. 2006 Office Action") the Examiner apparently objects to the use of the word "effect" in independent claims 31 and 46 and the use of the word "affect" in independent claims 39 and 53. As discussed in the Examiner Interview, Applicant asserts that the use of these words in their respective claims is intentional, that the use of these terms in their respective claims is grammatically proper, and that clarification or explanation is unnecessary.

The Examiner has also objected to claims 38 and 45 under 37 C.F.R. §1.75(c) for allegedly being of improper independent form for failing to limit the subject matter of the previous claim. On pages 2 and 3 of the Jan. 2006 Office Action, the Examiner argues that the following language of claims 38 and 45: "wherein the network component comprises one or more of...," does not limit the claims on which these claims respectively depend. As discussed in the Examiner Interview, claims 38 and 45 deal with *network component* features, not the network itself, and thus the Examiners argument that the network components recited in claims 38 and 54 must include at

least two computing devices is misplaced. As such, these dependent claims further describe various aspects of the invention set forth in the independent claims.

In the above-reference Examiner Interview, the Examiner indicated that these objections would be reconsidered upon submission of the instant response. Such reconsideration and withdrawal of the objections is hereby requested.

Rejections under 35. U.S.C. §112

The Examiner has rejected claims 31-58 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. On pages 3 and 4 of the Jan. 2006 Office Action, the Examiner alleges that the following language of claims 31 and 46: "determining an effect of the measured component parameter on the state of the service parameter," is indefinite. The Examiner further states that "it is not clear how ones determination of measuring a component parameter has an effect on the state of the service parameter." Jan. 2006 Office Action at page 3.

As discussed during the Examiner Interview, the claim language at issue deals with an effect that a *measured* component parameter has on a state of a service parameter, not how a determination of *measuring* a service parameter has an effect on a state of a service parameter. As discussed in the Examiner Interview, Applicant believes that the claim language, as written, clearly points out and distinctly claims the subject matter Applicant regards as the invention, and therefore needs no further clarification. In the above-reference Examiner Interview, the Examiner indicated that this rejection would be reconsidered upon submission of the instant response. Such reconsideration and withdrawal of the rejection is hereby requested.

The Examiner also alleges that the following language in claims 39 and 53: "implementing service level management of a business process in connection with a computer network having one or more network entities," is indefinite because a network must include at least two network entities. Jan. 2006 Office Action at page 4. Applicant disagrees with this rejection. However, solely to advance prosecution, Applicant has amended claims 39 and 53. As such, withdrawal of this rejection is requested.

Rejections Under 35 U.S.C. §102

The Examiner has rejected claims 31, 32, 34-36, 38-43, 45-47, 49-51 and 53-57 under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,233,449 to Glitho et al. ("Glitho"). Applicant traverses this rejection for at least the reason that Giltho does not disclose each and every feature of the claimed invention.

For example, Giltho fails to disclose at least the feature of "*determining an effect of [a] measured component parameter on [a] state of [a] service parameter,*" as set forth in independent claims 31 and 46. The measured component parameter is indicative of an operational characteristic of at least one network component. The state of the service parameter is used to determine conformity of a service supported by the service to an agreed upon service level.

The Examiner alleges that Giltho discloses these and other features of the claimed invention at col. 4, line 55 to col. 5, line 49 and col. 5, ll. 12-54. However, the portions of Giltho relied upon by the Examiner do not disclose these features of the invention, nor are these features of the invention taught elsewhere in Giltho.

Giltho relates to a system for monitoring performance and quality of service (QoS) in a network. If degraded QoS is detected, a suspected cause of degraded QoS is then determined. Id. col. 4, ll. 65-66 ("The PQSM function determines whether there is a problem with the QoS."); col. 5, ll. 3-4 ("The TS performs calculations to detect the cause of the degradation in the QoS."); col. 5, ll. 12-13 ("The suspected cause of the QoS degradation is then sent from the TS to the APA."). Giltho then discusses testing and execution of suggested corrective actions. Id. col. 5, ll. 13-15 ("The APA analyzes the suspected cause of the problem, and determines suggested corrective actions which are then sent to the NMS."); col. 5, ll. 35-37 ("If the NMS's predications are acceptable, the suggested corrective actions are then executed...").

The above citations illustrate that Giltho describes a <u>reactive</u> system, or so-called root cause analysis, for detecting performance degradation/QoS degradation, finding a suspected cause, and attempting to implement solutions. By contrast, the claimed invention relates to a <u>proactive</u> method that determines an effect of parameters of

<u>service-supporting network components</u> on a service level. The claim language, as written, reflects this distinction.

Simply put, Giltho describes measuring QoS and when a degredation occurs, determining, after the fact, what the cause of the degradation was. See e.g., at col. 7, II. 21-29 (Giltho discusses QoS dropping below a threshold, then determining a cause of the drop). In contrast, the claimed invention measures an operational characteristic (as indicated by a component parameter) of a network components and determines whether the measurements affect a service level. Nowhere does Giltho disclose measuring this operational characteristic.

For at least these reasons, the Examiner has not shown that any portions of Giltho disclose all the features of independent claims 31 or 46. Accordingly, the rejection of claims 31 and 46 is improper and must be withdrawn. Independent claims 39 and 53 include similar features as those discussed above for claims 31 and 46. Thus, the rejections of these claims are improper for at least the reasons set forth above and must be withdrawn. Claims 32, 34-36, 38, 40-43, 45, 47, 49-51 and 54-57 depend from and add features to one of independent claims 31, 39, 46, or 53. Thus, the rejections of these claims are likewise improper for at least the reasons set forth above with regard to claims 31, 39, 46, and 53, and must be withdrawn.

Rejections Under 35 U.S.C. §103

The Examiner has rejected claims 33 and 48 under 35 U.S.C. §103(a) as allegedly being unpatentable over Giltho in view of U.S. Patent No. 6,449,603 to Hunter et al. ("Hunter"). Applicant traverses these rejections for at least the reason that the references relied upon by the Examiner do not teach or suggest each and every feature of the claimed invention.

As set forth above, Giltho does not disclose each and every feature of independent claims 31 or 46. The Examiner's reliance upon Hunter does not cure this deficiency. Claims 33 and 48 depend from and add features to one of claims 31 or 46. Thus the rejections of claims 33 and 48 are improper and must be withdrawn.

The Examiner has also rejected claims 37, 44, 52 and 58 under 35 U.S.C. §103(a) as allegedly being unpatentable over Giltho, in view of U.S. Patent No. 6,249,755 to Yemini et al. ("Yemini"). Applicant traverses these rejections for at least the reason that the references relied upon by the Examiner fail to teach or suggest each and every feature of the claimed invention.

As set forth above, Giltho does not disclose each and every feature of independent claims 31, 39, 46, or 53. The Examiner's reliance upon Yemini does not cure this deficiency. Claims 37, 44, 52 and 58 depend from and add features to one of claims 31, 39, 46, or 53. Thus the rejections of claims 37, 44, 52 and 58 are improper and must be withdrawn.

New Claim 59

Applicant has added new claim 59. New claim 59 is patentable over the references relied upon by the Examiner for at least the reasons set forth above with regard to claim 31. Furthermore, new claim 59 includes the additional feature that measuring a component parameter of the at least one network component and determining the effect that the measured component parameter has on the state of the service parameter are both done while the at least one network component is supporting the service. Giltho does not disclose, teach or suggest at least this feature of the claimed invention. For at least these reasons, new claim 59 is patentable over the references relied upon by the Examiner. Thus, allowance of new claim 59 is proper. Notice to this effect is requested.
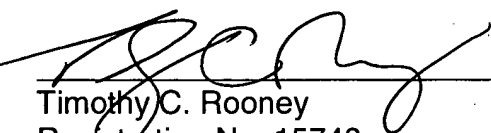
CONCLUSION

Having addressed each of the foregoing objections and rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: **July 12, 2006**

Respectfully submitted,

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